

# **State of Wyoming**



## **Department of Health**

### **Rules and Regulations for Environmental Modifications, Specialized Equipment and Self-Directed Goods and Services for Medicaid Home and Community-Based Waiver Services**

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# **State of Wyoming Department of Health**

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Self-Directed Goods and Services for Medicaid Home and Community-Based Waiver  
Services

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## Table of Contents

<b>Section 1.</b>	<b>Authority. ....</b>	<b>1</b>
<b>Section 2.</b>	<b>Purpose and Applicability. ....</b>	<b>1</b>
<b>Section 3.</b>	<b>General Provisions. ....</b>	<b>1</b>
<b>Section 4.</b>	<b>Philosophy. ....</b>	<b>2</b>
<b>Section 5.</b>	<b>Environmental Modifications – Scope and Limitations. ....</b>	<b>2</b>
<b>Section 6.</b>	<b>Environmental Modifications Approval Process.....</b>	<b>4</b>
<b>Section 7.</b>	<b>Specialized Equipment – Scope and Limitations.....</b>	<b>6</b>
<b>Section 8.</b>	<b>Specialized Equipment Approval Process.....</b>	<b>8</b>
<b>Section 9.</b>	<b>Self-Directed Goods and Services. ....</b>	<b>10</b>
<b>Section 10.</b>	<b>Self-Directed Goods and Services, Limits on the Amount, Frequency, or Duration. ....</b>	<b>11</b>
<b>Section 11.</b>	<b>Interpretation of Chapter.....</b>	<b>13</b>
<b>Section 12.</b>	<b>Superseding Effect.....</b>	<b>13</b>
<b>Section 13.</b>	<b>Severability.....</b>	<b>13</b>

## **CHAPTER 44**

### **WYOMING MEDICAID RULES**

#### **ENVIRONMENTAL MODIFICATIONS, SPECIALIZED EQUIPMENT, AND SELF-DIRECTED GOODS AND SERVICES FOR MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES**

##### **Section 1. Authority.**

This Chapter is promulgated by the Department of Health pursuant to the W.S. § 9-2-102, the Medical Assistance and Services Act at W.S. §§ 42-4-104 through 42-4-120, 2013 Wyoming Session Laws 322-325, and the Wyoming Administrative Procedure Act at W.S. § 16-3-101 through 16-3-115.

##### **Section 2. Purpose and Applicability.**

(a) This Chapter shall apply to and govern Medicaid reimbursement of environmental modification services, specialized equipment services, and self-directed goods and services provided under the Wyoming Children's Developmental Disabilities Home and Community-Based Waiver, the Wyoming Acquired Brain Injury Home and Community-Based Waiver, and the Supports and Comprehensive Waivers.

(b) The Behavioral Health Division, hereafter referred to as the "Division," may issue Provider Manuals, Provider Bulletins, or both, to providers and/or other affected parties to interpret the provisions of this Chapter. Such Provider Manuals and Provider Bulletins shall be consistent with and reflect the policies contained in this Chapter. The provisions contained in Provider Manuals or Provider Bulletins shall be subordinate to the provisions of this Chapter.

##### **Section 3. General Provisions.**

(a) Terminology. Unless otherwise specified, the terminology used in this Chapter is the standard terminology and has the standard meaning used in accounting, health care, Medicaid, and Medicare.

(b) Methodology. This Chapter establishes standards for environmental modification services, specialized equipment services, and self-directed goods and services provided through Behavioral Health Division Home and Community-Based Waivers.

(c) The requirements of Title XIX of the Social Security Act, 42 C.F.R. § 441.1 Subpart G, and the Medicaid State Plan apply to Medicaid and are incorporated by this reference as of the effective date of this Chapter, and may be cross-referenced throughout this Chapter where applicable. This incorporation by reference does not include any later amendments or editions of the incorporated matter. The incorporated rules and regulations may be viewed at <http://www.ecfr.gov/cgi-bin/ECFR>. The Medicaid State Plan may be viewed at <http://www.health.wyo.gov/healthcarefin/medicaid/spa.html>, or may be obtained at cost from the Department.

#### Section 4. Philosophy.

(a) All persons possess inalienable rights under the Constitutions of the United States and the State of Wyoming. Persons with developmental disabilities also possess the rights outlined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. § 15001.

(b) It is the philosophy of the Division to develop reasonable and enforceable rules for the provision of services to individuals with developmental disabilities in community settings in lieu of unnecessary institutionalization. This philosophy is mandated in the Supreme Court ruling on *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999).

(c) This Chapter is designed not only to support the philosophy of community-based services but to also protect the health, welfare, and safety of participants.

#### Section 5. Environmental Modifications – Scope and Limitations.

(a) Environmental modifications requests shall meet at least two of the following criteria for approval by the Division:

(i) Be functionally necessary.

(ii) Contribute to a person's ability to remain in or return to his or her home and out of an ICF/MR setting.

(iii) Be necessary to ensure the person's health, welfare, and safety.

(b) Environmental modifications may include, but are not limited to:

(i) The installation of ramps.

(ii) The installation of grab-bars.

(iii) Widening of doorways.

(iv) Modification of a bathroom, which adds square feet to the home, shall be covered only if it is the most cost effective modification that meets the needs of the participant.

(v) Installation of specialized electric or plumbing systems necessary to accommodate specialized medical equipment or supplies, which are necessary for the welfare of the participant.

(vi) Modifications that address accessibility limitations.

(vii) Modifications that address fire code requirements.

(viii) Fences for health or safety concerns.

(A) Fences shall not take the place of required supervision of the participant.

(B) Payment for fences shall not exceed the cost for 200 linear feet.

(c) Environmental modifications shall not include:

(i) Modifications to a residence that are of general utility or are primarily for the convenience of persons other than the participant, such as caregivers or family members and are not of direct medical or functional benefit to the participant.

(ii) Installation or replacement of carpeting.

(iii) Roof repair or replacement.

(iv) Central air conditioning.

(v) New carports, porches, patios, garages, porticos, decks, or repairing such structures.

(vi) Pools, spas, hot tubs or modifications to install pools, spas or hot tubs.

(vii) Landscaping or yard work, landscaping supplies, pest exterminations or removal of yard items.

(viii) Modifications that are part of new construction costs.

(ix) Modifications that add to the square footage of the home except bathroom modifications as specified in (b)(iv) of this Section.

(x) Window replacements.

(xi) Repairs or replacement of structural building components.

(xii) Modifications to a residence when the cost of such modifications exceeds the value of the residence before the modification.

(xiii) Any adaptations that are covered by another source, such as a state independent living center or a vocational rehabilitation provider.

(d) Covered modifications of rented or leased homes shall be those extraordinary alterations that are uniquely needed by the individual, and for which the property owner would not ordinarily be responsible.

(i) Such modifications shall require written approval from the homeowner or landlord.

(ii) Modifications shall include the minimum necessary to meet the functional requirements of the participant.

(iii) A participant may not purchase home accessibility adaptations to adapt living

arrangements that add value to a home that is owned or leased by providers of waiver services.

(e) The homeowner shall be responsible for general maintenance of environmental modifications.

(f) All services shall be provided in accordance with State or local building codes.

#### Section 6. Environmental Modifications Approval Process.

(a) The individual plan of care team may request environmental modifications during the six-month or annual individual plan of care meeting. Environmental modifications requests submitted at other times during the individual plan of care year may be submitted if significant health, safety, or access concerns are identified.

(b) When the individual plan of care team identifies an environmental concern or need, the Case Manager shall submit the following information to the Division for the overall scope of the project:

(i) A description of the environmental concern or need.

(ii) Based on an assessment from an occupational or physical therapist, a description of how the environmental concern is related to the participant's diagnosed disability based on an assessment from an occupational or physical therapist.

(iii) How addressing the environmental concern will:

(A) Contribute to the participant's ability to remain in, or return to, his or her home.

(B) Increase the participant's independence.

(C) Address the participant's accessibility concerns.

(D) Address health and safety needs of the participant.

(c) The Case Manager shall work with the participant or guardian to identify two certified environmental modification providers and contact the providers to obtain quotes. Quotes shall include:

(i) A detailed description of the work to be completed, including drawings or pictures when appropriate.

(ii) Estimate of the material and labor needed to complete the job, including costs of clean up.

(iii) Estimate for building permit, if needed.

(iv) Estimated timeline for completing the job.

(v) Name, address, and telephone number of the provider.

(vi) Signature of the provider.

(d) The Case Manager may submit the service authorization section of the individual plan of care to the Division, including:

(i) The assessment completed by the professional team or the written approval from the Division to proceed with quotes.

(ii) Two (2) quotes completed by certified environmental modification providers.

(A) If two quotes cannot be obtained, an explanation as to why only one quote was submitted.

(B) The Division may not review any request that does not include at least one quote.

(e) The Division may schedule an on-site assessment of the environmental concern including an evaluation of functional necessity with appropriate professionals under contract with the Division. The Division may use a third party to assess the proposed modification, and need, for the modification to ensure cost effectiveness. The assessment shall include:

(i) A statement verifying that the request meets at least two (2) of the criteria pursuant to Section 5(a) of this Chapter.

(ii) A description of the modification that will address the environmental concern, including the minimum quality and quantity of material needed, and estimated cost range for modification.

(f) The Division shall notify the participant and Case Manager of the approval, including the quote that was approved.

(i) Modifications shall be completed by the date stated in the individual plan of care unless otherwise authorized by the Division.

(ii) If the cost of a modification increases due to a significant change in costs of material, the Case Manager shall submit a revised quote detailing the change in cost.

(iii) Case Manager shall not give copies of the individual plan of care to the environmental modification provider. The environmental modification provider shall receive a copy of the approved service authorization printout.

(g) Upon completion of the environmental modification the provider shall have the homeowner sign the original quote verifying that the modification is complete.

(i) The environmental modification provider shall submit the signed quote to the participant's Case Manager.

(ii) If the homeowner has concerns with the modification they shall contact the Case Manager, who shall inform the Division of the concerns.



(iii) The Division shall complete an on-site review of the modification to determine if is completed as described in the original quote.

(h) The Division or its agent may conduct on-site visits or any other investigations deemed necessary prior to approving or denying the request for an environmental modification.

(i) The Division reserves the right to deny requests for environmental modifications that are not within usual and customary charges or industry standards.

(j) Relative providers (including parents and stepparents) may provide this service in accordance with Chapter 45, Waiver Provider Certification and Sanctions, of the Wyoming Medicaid Rules, if they also adhere to the following requirements:

(i) They are a certified Medicaid Waiver Environmental Modification provider.

(ii) The Division receives at least one (1) other bid from another provider to ensure cost effectiveness.

(k) Provider agencies must be certified by the Division to provide Environmental Modifications prior to providing the service.

(i) Any individual employed by an agency certified to provide environmental modification services is required to assure that he or she has the applicable building, electrical, and plumbing contractor's license as required by local or state regulations.

(ii) In addition to having the applicable building, electrical, and plumbing contractor's license as required by local or state regulations, individuals certified to provide environmental modifications services must also complete training on incident reporting, recertification, Health Insurance Portability and Accountability Act (HIPAA), and Confidentiality.

(iii) The Agency must meet all other applicable Medicaid rules and regulations.

(iv) There is a lifetime cap of \$20,000 for environmental modifications per family, regardless of waiver. Cap begins for purchases made after July 1, 2013 on previous Wyoming Waivers. Critical health or safety service requests that exceed the lifetime cap are subject to available funding and approval by the Extraordinary Care Committee.

#### Section 7. Specialized Equipment – Scope and Limitations.

(a) Specialized equipment must be functionally necessary and meet at least two of the following criteria:

(i) Be necessary to increase ability to perform activities of daily living or to perceive, control, or communicate with the environment in which the person lives,

(ii) Be necessary to enable the participant to function with greater independence and without which the person would require institutionalization, or

(iii) Be necessary to ensure the person's health, welfare, and safety.

(b) The individual plan of care shall reflect the need for equipment, how the equipment addresses health, safety, or accessibility needs of the participant, or allows them to function with greater independence, and specific information on how often the equipment is used and where it is used.

(i) The Case Manager shall check with Medicaid, Medicare, or a participant's other insurance carrier to see if the requested equipment is covered under their plans.

(ii) The Medicaid Waiver is a payer of last resort.

(c) Specialized equipment may include but is not limited to:

(i) Devices, controls, or appliances, specified in the plan of care, that enable participants to increase their ability to perform activities of daily living.

(ii) Devices, controls, or appliances that enable the participant to perceive, control or communicate with the environment in which they live.

(iii) Items necessary for life support or to address physical conditions along with the ancillary supplies and equipment necessary to the proper functioning of such items.

(iv) Such other durable and non-durable medical equipment not available under the Medicaid state plan that is necessary to address participant functional limitations.

(v) Necessary medical supplies not available under the Medicaid state plan or other insurance held by the participant. Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the state plan and exclude those items that are not of direct medical or remedial benefit to the participant. All items shall meet applicable standards of manufacture, design and installation.

(d) Specialized equipment shall not include the following, even if prescribed by a licensed health care professional:

(i) Items paid for under the Medicaid state plan or under Early Periodic Screening, Diagnosis, and Treatment (EPSDT).

(ii) Educational or therapy items that are an extension of services provided by the Department of Education.

(iii) Items of general use that are not specific to a disability, or that would normally be available to any child or adult, including but not limited to furniture, recliners, desks, shelving, appliances, bedding, bean bag chairs, crayons, coloring books, other books, games, toys, videotapes, CD players, radios, cassette players, tape recorders, television, VCRs, DVD players, electronic games, cameras, film, swing sets, other indoor and outdoor play equipment, trampolines, strollers, play houses, bike helmets, bike trailers, bicycles, health club memberships, merry-go-rounds, golf carts, four wheelers, go-carts, scooters, and motor homes.

- (iv) Pools, spas, hot tubs or modifications to install pools, spas, or hot tubs.
- (v) Computers and computer equipment, including the CPU, hard drive, and printers, except for situations pursuant to (c) of this Section.
- (vi) Items that are not proven interventions through either professional peer reviews or evidence based studies.
- (vii) Communication items such as telephones, pagers, pre-paid minute cards and monthly services.
- (e) Repairs shall be completed by the manufacturer, if a warranty is in place.
- (f) Requests for repairs not covered by warranty may be submitted to the Division for approval.
- (g) Sale of specialized equipment shall not profit the participant or family.

#### Section 8. Specialized Equipment Approval Process.

- (a) The team may submit requests for specialized equipment during the six-month or annual individual plan of care meeting. Specialized equipment requests submitted at other times during the individual plan of care year may be submitted if significant health, safety, or access concerns are identified.
- (b) Approval for specialized equipment shall require:
  - (i) A recommendation from a therapist or professional with expertise in the area of need. The recommendation shall include:
    - (A) Description of the functional need for the specialized equipment.
    - (B) How the specialized equipment will contribute to a person's ability to remain in or return to his or her home and out of an Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/ID), or other institutional setting.
    - (C) How the specialized equipment will increase the individual's independence and decrease the need for other services.
    - (D) How the specialized equipment addresses accessibility, health, and/or safety needs of the participant.
    - (E) Documentation that the participant has the capability to use the equipment.
    - (F) Documentation that the waiver is the payer of last resort.
    - (G) A description of how equipment shall be delivered and who will train the

person and providers on the equipment.

(H) Documentation of an estimate of a quote of the equipment, including a maximum markup on the equipment of 20%, up to a maximum of \$200.

(I) The quote may include a detailed description of the need and costs for expert assembly of the equipment in addition to 20% markup.

(II) The quotes may include a detailed description of the need and cost for training on the specialized equipment in addition to the 20% markup.

(ii) The Division may schedule a review of the specialized equipment quote, including an evaluation of functional necessity, with appropriate professionals under contract with the Division.

(iii) The review shall include a statement verifying that the request meets at least two (2) of the criteria pursuant to Section 7(a) of this Chapter.

(iv) If the participant has an Individualized Education Plan (IEP) or Individual Family Service Plan (IFSP), the Case Manager must submit a copy of that document, along with documentation as to why the equipment is not sent home with the participant, or a reason why the equipment is necessary at home but not at school.

(c) The Division may request documentation that a less expensive, comparable alternative to requested equipment or supplies is not available or practical. If a more cost-effective alternative is determined to be available, the Department shall deny the original request or specify that only the less costly equipment or supplies are approved.

(d) Equipment purchases have an annual cap of \$2,000. If an item needed exceeds that amount, the team may request an exception to the cap through the Extraordinary Care Committee (ECC). The Division may require an assessment for specialized equipment needs by a Certified Specialized Equipment (CSE) professional. Assessment is funded as part of the \$2,000 cap. Insurance on items is not covered by waiver but may be purchased by the participant separately.

(e) Electronic technology devices are only allowed once every five (5) years and like items cannot be purchased during those five (5) years.

(f) Provider Agencies must be certified by the Division to provide Specialized Equipment.

(i) Employees of the Agency must possess applicable license and certifications for the type of equipment purchased for a participant.

(ii) Agencies providing this service must meet the requirements in Chapter 45, Waiver Provider Certification and Sanctions, of the Wyoming Medicaid Rules, including assuring any employee providing this service passes a Criminal History Background check and completes all required training.

(iii) The Agency must adhere to the standards and requirements specified in Chapter

45, Waiver Provider Certification and Sanctions, of the Wyoming Medicaid Rules, and also meet all other applicable Medicaid rules and regulations.

#### Section 9. Self-Directed Goods and Services.

(a) Goods and services are services, equipment, and supplies that provide direct benefit to the participant and support specific outcomes in the individual plan of care.

(b) The service, equipment or supply must:

- (i) Reduce the reliance of the participant on other paid supports.
- (ii) Be directly related to health or safety of the participant in the home or community.
- (iii) Be habilitative and contribute to a therapeutic objective.
- (iv) Increase the participant's ability to be integrated into the community, or
- (v) Provide resources to expand self-advocacy skills and knowledge.

(c) Goods and Services may include:

(i) Equipment not otherwise available through the specialized equipment waiver service.

(ii) Devices, aids, controls, supplies, or household appliances which enable individuals to increase the ability to perform activities of daily living or to perceive, control, or communicate with the environment and community in which he or she lives. Service includes items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State Plan. Service includes vehicle modifications, but does not include items of direct medical or remedial benefit to the individual. All items must meet applicable standards of manufacture, design, and installation.

(iii) Transportation provided by family members (excluding parents, step-parents, guardians, or spouses per Wyoming State Statute), friends, and other licensed drivers for using non-agency vehicles to transport the person to services and activities specified in the person's individual plan of care unless the service includes transportation. The unit of service is one mile. The rate may not exceed the current state rate for mileage reimbursement and cannot include medical transportation covered by the Medicaid State Plan.

(iv) Home modifications not otherwise allowed in the Environmental modification waiver service. Allowable modifications may include physical adaptations which are necessary to ensure the health, welfare, and safety of the individual in the home, enhance the individual's level of independence, or which enable the individual to function with greater independence in the home.

(v) The cost of the participant attending a camp, and in some cases, an attendant to accompany the person to a camp that he or she could not attend alone and additional staffing was

not available at the camp to ensure the person's health and safety.

(vi) Consultation, evaluation and training, and a written document that evaluates and identifies the participant's strengths, needs, current availability and potential capacity of natural supports, and the need for service and financial resources, if appropriate. As appropriate for the participant, a consultation shall include:

(A) Participant preferences,

(B) Health status,

(C) Medications,

(D) Conditions and treatments,

(E) Functional performance, including Activities of Daily Living (ADLs), level of assistance needed, and assistive devices used or needed.

(F) Behavior and emotional factors, including pertinent history, coping mechanisms, and stressors.

(G) Cognitive functioning, including memory, attention, judgment, and general cognitive measures.

(H) Environmental factors, including architectural, transportation, other barriers.

(I) Social supports and networks, including natural supports, and

(J) Financial factors, including guardianship or conservatorships, or entitlements that influence the array of supports and services that are needed.

Section 10. Self-Directed Goods and Services, Limits on the Amount, Frequency, or Duration.

(a) Self-Directed Goods and Services have a \$2,000 annual limit and typically include any device that is not currently allowed under Specialized Equipment.

(b) All goods and services must be prior authorized by the Division and cannot be available through Specialized Equipment or Environmental Modifications on the waiver as specified in this Chapter of Medicaid Rules.

(c) The Extraordinary Care Committee may approve requests above the limit if the request meets the following criteria:

(i) The participant loses eligibility for other resources because of age and provides documentation that vocational rehabilitation services are not available to meet those needs.

(ii) The participant has increased health concerns that require more services.

(iii) The participant has increased behavioral concerns that require more intervention.

(iv) The participant's unpaid caregiver cannot continue the historical level of support due to the health condition of the unpaid caregiver.

(d) The Division may require an assessment for an equipment purchase by a CSE professional. Assessment is funded as a part of the \$2,000 cap.

(e) Electronic technology devices are only allowed once every five (5) years and like items cannot be purchased during those five (5) years. There are no exceptions. The Division shall limit the purchase of any general item, such as a computer or tablet, unless recommended by CSE professional.

(f) Certain items may not be covered, such as computers, bikes, televisions, DVD players or furniture, if the item does not meet the criteria of the service definition in Section 9.

(g) The Division, after approving goods and services, will only pay the actual costs for purchasing the device.

(i) The Case Manager shall check with Medicaid, Medicare, or a participant's other insurance carrier to see if the requested equipment is covered under their plans.

(ii) The Medicaid Waiver is a payer of last resort.

(h) This service is only available for participants self-directing at least one (1) direct care service through the Fiscal Employer Agent. This service may be provided by a relative, excluding parents and stepparents. This service may not duplicate any Medicaid State Plan service.

(i) Modifications to a residence that are not covered under the environmental modification service may be approved, if the cost of such modifications does not exceed the value of the improvement before the modification. Covered modifications of rented or leased homes must be those extraordinary alterations that are uniquely needed by the individual and for which the property owner would not ordinarily be responsible. Service does not include adaptations or improvements to the home, which are of general utility and are not of direct medical or remedial benefit, or adaptations that add to the total square footage of the home or are covered as an environmental modification.

(j) Prior to requesting any Self-Directed Goods or Services, the Fiscal/Employer Agent must verify and document that the individual hired to provide a direct service to participant:

(i) Is at least eighteen (18) years of age.

(ii) Has completed a successful criminal background check.

(iii) Has the ability to communicate effectively with the participant and family.

(iv) Has the ability to complete record keeping as required by the employer.

(v) Has a current CPR and First Aid Certification.

(vi) Has a current driver's license and appropriate automobile insurance, including

commercial insurance, if transporting the participant.

(k) Before a person may work with a participant to provide Self-Directed Goods and Services, the participant or legal representative, with assistance as needed from the Support Broker or Case Manager, must verify that the individual being hired demonstrates competence in knowledge of the following BHD policies and procedures:

- (i) Recognizing abuse/neglect;
- (ii) Incident reporting;
- (iii) Participant rights and confidentiality;
- (iv) Emergency drills/situations;
- (v) Documentation standards; and

(vi) Demonstrates competence/knowledge in the participant's needs outlined in the individualized plan of care.

#### Section 11. Interpretation of Chapter.

(a) The order in which the provisions of this Chapter appear is not to be construed to mean that any one provision is more or less important than any other provision.

(b) The text of this Chapter shall control the titles of its various provisions.

#### Section 12. Superseding Effect.

This Chapter supersedes all prior rules or policy statements issued by the Division, including Provider Manuals and Provider Bulletins, which are inconsistent with this Chapter.

#### Section 13. Severability.

If any portion of this Chapter is found to be invalid or unenforceable, the remainder shall continue in full force and effect.